

1                   Okay. So now what are the -- I'm  
2                   sorry. I'm behind a little bit. What are the  
3                   numbers that we're talking about for the call  
4                   reports?

5                   MR. ROSE:     Ninety-nine through  
6                   104.

7                   JUDGE SIPPEL:   Ninety-nine, 100,  
8                   102, 103 and 104, and those would tie in with  
9                   my previous rulings. So they are received,  
10                  identified and received, as calling reports.

11                  (Whereupon, the documents referred  
12                  to were marked as WealthTV Exhibit  
13                  Nos.    99     through    104     for  
14                  identification and received in  
15                  evidence.)

16                  JUDGE SIPPEL:   Okay. Thank you.

17                  MR. COHEN:   Your Honor, I can then  
18                  expedite again, I think. On 105 through 109  
19                  are E-mail exchanges between Wealth and Time  
20                  Warner with respect to carriage. We have no  
21                  objections to any of those documents.

22                  JUDGE SIPPEL:   E-mails between

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1 WealthTV and Time Warner?

2 MR. COHEN: Time Warner.

3 JUDGE SIPPEL: Is that right?

4 MR. COHEN: Yes, sir.

5 JUDGE SIPPEL: Okay, and they are  
6 identified as such and they are received in  
7 evidence at 105, 106, 107, 108 and 109.

8 (Whereupon, the documents referred  
9 to were marked as WealthTV Exhibit  
10 Nos. 105 through 109 for  
11 identification and received in  
12 evidence.)

13 MR. ROSE: And 110 through 112, I  
14 think, were not objected to originally. They  
15 are also E-mail exchanges.

16 MR. MILLS: Those are E-mail  
17 exchanges with Cox Communications, and we  
18 don't object to those either.

19 JUDGE SIPPEL: Thank you.

20 So the numbers again? Give me the  
21 numbers. One, ten?

22 MR. ROSE: One, ten, 111, 112.

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1 JUDGE SIPPEL: E-mails with Cox  
2 and WealthTV, 110, 111 and 112 to  
3 identification are received now in evidence of  
4 110, 111 and 112. Thank you.

5 (Whereupon, the documents referred  
6 to were marked as WealthTV Exhibits  
7 Nos. 110 through 112 for  
8 identification and received in  
9 evidence.)

10 JUDGE SIPPEL: The next group of  
11 exhibits?

12 MR. ROSE: One, thirteen is  
13 letter Mr. Herring wrote to a person at Forbes  
14 having to do with advertising, keeping  
15 advertising. I will proffer that. There was  
16 an objection somewhere.

17 MR. COHEN: No, we withdrew it.

18 MR. ROSE: One, thirteen.

19 MR. COHEN: Yes, we withdrew our  
20 objection last night.

21 MR. ROSE: I apologize. I have an  
22 older list.

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1 MR. COHEN: No objection.

2 JUDGE SIPPEL: One, thirteen, and  
3 it looks like it's addressed to Mr. Bill Baker  
4 in Laguna, California, Laguna Niguel,  
5 California; is that right? Do I have the  
6 right one?

7 MR. COHEN: Yes, Your Honor.

8 JUDGE SIPPEL: And how does Forbes  
9 fit into this?

10 MR. ROSE: They provide  
11 advertising.

12 JUDGE SIPPEL: Oh, I see. They're  
13 mentioned in the body of the letter, but who  
14 is this Bill Baker person?

15 MR. ROSE: He's described as an  
16 independent producer for Forbes. I'm not sure  
17 if he's wrapping him exactly, but he's someone  
18 speaking, you know, for the station to Forbes.

19 JUDGE SIPPEL: So he's an agent of  
20 Forbes basically; is that right? All right.  
21 And it's dated December 9, 2004. It is  
22 identified --

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1 MR. SCHONMAN: Your Honor, I just  
2 have a question.

3 JUDGE SIPPEL: Oh, I'm sorry, Mr.  
4 Schonman.

5 MR. SCHONMAN: In the first  
6 paragraph it refers to an attached overview  
7 presentation, and I don't have a copy of that.  
8 I don't know if it was intended to be attached  
9 to that or not?

10 JUDGE SIPPEL: Well, we'll see if  
11 somebody can -- Ms. Wallman or someone, can  
12 you shed some light on that?

13 MR. ROSE: Evidently WealthTV  
14 doesn't know where a copy of that is at the  
15 moment.

16 MR. COHEN: Yeah, we are, Mr.  
17 Schonman, offering the Forbes deck that we  
18 have, which is a week later. So it may well  
19 be that this letter depicts that at the time.  
20 I'm not representing it's the attached deck,  
21 but there is a deck to Forbes that actually we  
22 are going to offer into evidence that's

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1 contemporaneous, but not precisely this day.  
2 It's December of 2004. So we'll come to it on  
3 the Time Warner Cable documents.

4 JUDGE SIPPEL: Good enough. If  
5 there's no objection, WTV Exhibit 113,  
6 identified and received. Thank you.

7 (Whereupon, the document referred  
8 to was marked as WealthTV Exhibit  
9 No. 113 for identification and  
10 received in evidence.)

11 JUDGE SIPPEL: One, fourteen?

12 MS. WALLMAN: Your Honor, we're  
13 going to withdraw Exhibit 114.

14 JUDGE SIPPEL: WTV Exhibit 114,  
15 withdrawn. Thank you.

16 (Whereupon, the document referred  
17 to as WealthTV Exhibit No. 114 was  
18 withdrawn from evidence.)

19 JUDGE SIPPEL: One, fifteen.

20 MR. ROSE: One, fifteen is a  
21 summary document prepared in the normal course  
22 of business about sales efforts Wealth made

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1       towards elements of Time Warner. It's a  
2       business record from our point of view.

3               MR. COHEN:       Yeah, our only  
4       objection to this is we're actually -- this is  
5       a piece of a document. There's an E-mail that  
6       goes in front which Time Warner is going to  
7       introduce into evidence.       So 115 is  
8       duplicative, and I think it's incomplete. So  
9       that was the nature of our objection, which is  
10       there's actually an E-mail on top that  
11       explains what this document is, and we're  
12       offering the E-mail plus this document.

13               JUDGE SIPPEL: Plus the complete -  
14       -

15               MR. COHEN:       Plus the complete  
16       version of which 115 is a piece. I'm just  
17       scrambling to try to find which one it is. I  
18       think it's Time Warner 11, which it may not  
19       be. It's not. Bear with me for a minute,  
20       Your Honor.

21               JUDGE SIPPEL: Oh, sure.

22               MR. COHEN: Time Warner 8, if you

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1 want to look at that.

2 JUDGE SIPPEL: Well, I'll just as  
3 Mr. Rose or somebody on your side. Is that  
- 4 true? I mean, are you accepting of that?

5 MR. ROSE: Ms. Wallman is checking  
6 right now.

7 JUDGE SIPPEL: Thank you.

8 MS. WALLMAN: This is not a  
9 confidential document.

10 MR. ROSE: I think we're conceding  
11 that theirs appears to be a more complete  
12 version.

13 JUDGE SIPPEL: All right. The  
14 ruling will be I'm going to reject Exhibit 115  
15 as being duplicative of a more complete  
16 document that's coming in as Time Warner  
17 Exhibit 8, to be received.

18 (Whereupon, the document referred  
19 to was marked as WealthTV Exhibit  
20 No. 115 for identification and was  
21 rejected from evidence.)

22 JUDGE SIPPEL: Okay. The next

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1 document?

2 MR. ROSE: One, sixteen is another  
3 deck, and there appears to be no objection.

4 MR. MILLS: The only objection  
5 that I have to this is there is a document  
6 included in this which is on page --

7 JUDGE SIPPEL: Is it the deck  
8 about Cox?

9 MR. MILLS: It is, Your Honor.  
10 Handwritten page 21 has a slide that is  
11 entitled "Strong Cox Support," and I don't  
12 object to the admission of this presentation,  
13 but I object to the admission of this slide to  
14 the extent that it's offered for the truth of  
15 the comments made in the last column.

16 JUDGE SIPPEL: It starts with  
17 Bates 468. Which Bates number are you looking  
18 at?

19 MR. MILLS: Four, four, eight,  
20 eight.

21 JUDGE SIPPEL: Say again?

22 MR. MILLS: Four, four, eight,

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1 eight.

2 JUDGE SIPPEL: Oh, thank you.  
3 Okay. I see it, "Strong Cox Support." This  
4 is Bates No. 4488. And your objection is?

5 MR. MILLS: As I understand it,  
6 this is WealthTV executives coming in and Mr.  
7 Herring, I believe, in particular making  
8 representations about either what other  
9 reports say or what other people said, and to  
10 that extent I understand that it shows what  
11 happened and knowledge and that sort of thing,  
12 but the truth of the statements in the last  
13 column is hearsay, and I object to the  
14 admission of those statements for the truth of  
15 the statements.

16 So, for example, if it says "likes  
17 the programming and the local field," that's  
18 a statement made allegedly by somebody else  
19 who's not present and that does not have a  
20 sponsor. So it's internal hearsay.

21 I'm not objecting to the admission  
22 of the document otherwise.

1 MS. WALLMAN: Your Honor, it's  
2 offered only for the purpose of showing what  
3 Mr. Herring was told.

4 JUDGE SIPPEL: Well, that's not  
5 necessarily for the truth of it. That's what  
6 he was told.

7 MS. WALLMAN: Correct.

8 MR. ROSE: But that doesn't read  
9 that way to Cox.

10 MR. MILLS: Then that's fine. All  
11 right. We have no objection to that.

12 JUDGE SIPPEL: Okay. Not for  
13 truth, okay. So then with that, it's WTV  
14 Exhibit 116, which is the deck starting with  
15 -- oh, I see. He's got it right here --  
16 4468, Bates 4468 to Bates 4509. That is  
17 received in evidence as WTV Exhibit 116.  
18 Thank you.

19 (Whereupon, the document referred  
20 to was marked as WealthTV Exhibit  
21 No. 116 for identification and  
22 received in evidence.)

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1 MR. ROSE: All right. One,  
2 seventeen, is a deck presented by Mr. Herring  
3 to Comcast. We proffer that one.

4 MR. COHEN: Your Honor, again, to  
5 try to shortcut, 117 through 122 are all  
6 presentations. We are not conceding the truth  
7 of the statements in those presentations, but  
8 they're being offered for those were the  
9 presentations that were made. We're certainly  
10 amenable to them being received on that basis.

11 MR. MILLS: The same way as 116.  
12 Well, they're all slightly different, but  
13 similar to. Some were to advertisers.

14 JUDGE SIPPEL: Same format though.

15 MR. COHEN: Same format, and we're  
16 going to offer a bunch of them.

17 MR. ROSE: Same purpose for the  
18 offer, too.

19 JUDGE SIPPEL: Right.

20 MR. COHEN: So that would take you  
21 right through 122.

22 JUDGE SIPPEL: Do you have any --

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1 I mean, is that okay with you, Ms. Wallman?

2 MS. WALLMAN: Yes, Your Honor.

3 JUDGE SIPPEL: All right. So,  
4 again, Exhibits 117 through 122, identified as  
5 miscellaneous deck presentations are received  
6 in evidence as they appear, but without any  
7 determination as to the truth of the  
8 substantive matters asserted therein.

9 (Whereupon, the documents referred  
10 to were marked as WealthTV Exhibit  
11 Nos. 117 through 122 for  
12 identification and received in  
13 evidence.)

14 JUDGE SIPPEL: Okay, and that  
15 leaves us with what?

16 MR. ROSE: I believe 123 and 124  
17 have already been admitted, call reports, as  
18 call reports.

19 MR. MILLS: That's right. They've  
20 been admitted with the same limitation as  
21 earlier.

22 JUDGE SIPPEL: All right. We have

1 the call reports. Okay, all right. Subject  
2 to earlier rulings, of course, and what does  
3 that leave us with? One, twenty-five?

4 MR. ROSE: One, twenty-five is a  
5 schedule of INHD programming. There appears  
6 to be no objection.

7 JUDGE SIPPEL: It is what?  
8 Programming is WealthTV's programming?

9 MR. ROSE: It's a schedule of the  
10 channel known as INHD, which was a predecessor  
11 to Mojo.

12 JUDGE SIPPEL: For what period of  
13 time?

14 MR. COHEN: For one week in 2004,  
15 Your Honor, 4/17/2004.

16 JUDGE SIPPEL: Four, seventeen.

17 MR. COHEN: The week of 4/17.

18 JUDGE SIPPEL: I've got it, yeah.

19 MS. WALLMAN: Through April 23rd.

20 JUDGE SIPPEL: Okay. Four,  
21 twenty-three, and that's Exhibit 125?

22 MS. WALLMAN: Yes, Your Honor.

1 JUDGE SIPPEL: Okay, and that's  
2 Bates 001 to 026, correct? That's what it  
3 says.

4 MR. ROSE: Yes, Your Honor.

5 MS. WALLMAN: Yes, Your Honor.

6 JUDGE SIPPEL: Thank you. That's  
7 identified and received in evidence as WTV  
8 Exhibit 125.

9 (Whereupon, the document referred  
10 to was marked as WealthTV Exhibit  
11 No. 125 for identification and  
12 received in evidence.)

13 JUDGE SIPPEL: One, twenty-six?

14 MS. WALLMAN: Your Honor, we're  
15 going to withdraw a few exhibits here. We're  
16 going to withdraw consistent with prior  
17 rulings Nos. 126, 127, 128, 129 and 130.

18 JUDGE SIPPEL: Thank you.

19 MS. WALLMAN: And 132. That  
20 leaves 131 for discussion in that range.

21 JUDGE SIPPEL: Thank you.

22 (Whereupon, the documents referred

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1 to as WealthTV Exhibit Nos. 126  
2 through 130 and 132 were withdrawn  
3 from evidence.)

4 MR. ROSE: One, thirty-one is a  
5 press release by In Demand.

6 JUDGE SIPPEL: Okay.

7 MR. COHEN: No objection, Your  
8 Honor.

9 JUDGE SIPPEL: In Demand press  
10 release. What's the date on it? Can you tell  
11 me?

12 MR. COHEN: June 14th, 2006.

13 JUDGE SIPPEL: June 14th, 2006.  
14 There being no objection, so it is then  
15 identified and received. Thank you very much.

16 (Whereupon, the document referred  
17 to was marked as WealthTV Exhibit  
18 No. 131 for identification and  
19 received in evidence.)

20 JUDGE SIPPEL: Does that leave  
21 anything on Volume 3 or is that it?

22 MR. ROSE: One, thirty-three.



1 JUDGE SIPPEL: One, thirty-three.

2 MR. ROSE: It's a Mojo -- it's a  
3 flyer that I'm not exactly sure where it was  
4 distributed, but it's something they produced  
5 that I described a number of things.

6 JUDGE SIPPEL: Who produced it?

7 MR. ROSE: Mojo is the channel  
8 we're saying that the Defendants preferred  
9 you know, unlawfully discriminated in favor of  
10 a competitor of WealthTV for the place on the  
11 systems. So Mojo or I suppose Mojo is  
12 actually part of INHD. So INHD would have  
13 produced it.

14 MR. COHEN: In Demand, yes, but  
15 we're not objecting, Your Honor, consistent  
16 with your earlier ruling of today.

17 JUDGE SIPPEL: Okay, and  
18 generically, this can be described as what?

19 MR. COHEN: It's a description of  
20 the program.

21 JUDGE SIPPEL: The program. Thank  
22 you.

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1                   What time period are we talking  
2                   about?

3                   MR. COHEN: 2008, Your Honor.

4                   JUDGE SIPPEL: And it's identified  
5                   and it's received in evidence as WTV 133.  
6                   Thank you.

7                   (Whereupon, the document referred  
8                   to was marked as WealthTV Exhibit  
9                   No. 133 for identification and  
10                  received in evidence.)

11                  JUDGE SIPPEL: Does that conclude  
12                  the document side of --

13                  MR. ROSE: There were only two  
14                  exhibits that were sealed and I haven't seen.

15                  MR. MILLS: Let me ask a question.  
16                  If I can understand maybe, 133, is it two  
17                  pages that are identical?

18                  JUDGE SIPPEL: Oh, the ones that  
19                  are identical? One, fifteen I have. It's the  
20                  same as TW Exhibit 8.

21                  MR. MILLS: I'm looking at Exhibit  
22                  133, right?

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1 JUDGE SIPPEL: The copy doesn't  
2 seem to have been included.

3 MR. MILLS: There seems to be two  
4 copies within Exhibit 133.

5 JUDGE SIPPEL: Two of the same?

6 MR. MILLS: It looks like it.

7 MR. COHEN: Yes, it does..

8 MR. MILLS: And then they're also  
9 duplicative of Exhibit 66, which is it looks  
10 like the same thing.

11 MR. ROSE: Which was already  
12 admitted. You're probably right, but I've  
13 never seen it before.

14 MR. COHEN: the only thing I would  
15 say is that 133 is easier to read than 66.

16 (Laughter.)

17 MR. ROSE: Sixty-six has different  
18 Bates numbers. They evidently were just  
19 produced separately.

20 JUDGE SIPPEL: Well, can we just  
21 -

22 MR. ROSE: Pick one and one page

1 of one.

2 JUDGE SIPPEL: Yeah.

3 MR. ROSE: I'd say the first page  
4 of 133 is easier to read.

5 JUDGE SIPPEL: Okay. Why don't we  
6 just pull the second page of 133. Is that  
7 okay?

8 MS. WALLMAN: Agreed.

9 JUDGE SIPPEL: And then we're  
10 going to take out, reject Exhibit 66 simply as  
11 duplicative.

12 MR. MILLS: So 66 is?

13 JUDGE SIPPEL: Withdrawn.

14 MR. ROSE: Replaced by 133.

15 (Whereupon, the document referred  
16 to previously marked as WealthTV  
17 Exhibit No. 66 for identification  
18 was withdrawn from evidence.)

19 JUDGE SIPPEL: All right. I think  
20 rather than leaving a blank page, unless you  
21 want to give a page to the reporter tomorrow  
22 that says "withdrawn as duplicative," you can

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1 just leave it in the record and for record  
2 purposes it has been withdrawn. It's only one  
3 piece of paper, in fact, isn't it?

4 MR. ROSE: Yes.

5 JUDGE SIPPEL: More important  
6 things to do. That's it then?

7 Now, you said there is some kind  
8 of a secret document or a confidential  
9 document?

10 MS. WALLMAN: There were two  
11 exhibits. One was confidential to Comcast and  
12 one was confidential to Time Warner. Exhibit  
13 134 is an E-mail exchange between Comcast and  
14 WealthTV. It was submitted in an envelope as  
15 per the protective order. There is no  
16 objection noted to that exhibit.

17 JUDGE SIPPEL: It can come in,  
18 except it has got to be protected.

19 MS. WALLMAN: Yes.

20 JUDGE SIPPEL: All right.

21 MS. WALLMAN: It's confidential.

22 JUDGE SIPPEL: Yeah, and that's

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1 134. That's a Time Warner?

2 MR. COHEN: It's Comcast.

3 JUDGE SIPPEL: Comcast. I'm  
4 sorry.

5 MR. COHEN: We have no objection.

6 MR. MILLS: Just for  
7 clarification, and maybe we're not supposed to  
8 see it, but isn't counsel -- I haven't seen  
9 it. Is that deliberate and consistent with  
10 the protective order?

11 MS. WALLMAN: It was deliberate  
12 because it was produced by Comcast. It was  
13 marked confidential by them, and as I  
14 understand it, each company, unless it has  
15 been stipulated otherwise for a deposition or  
16 something, confidential information to Comcast  
17 is confidential vis-a-vis the other  
18 Defendants.

19 MR. COHEN: I think, Your Honor,  
20 this would be a good time to deal with this.  
21 The view of the Defendants' counsel was that  
22 Defendants' trial counsel will be able to see

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1 any document of any of the Defendants. There  
2 are certain in-house lawyers who are also  
3 cleared for highly confidential. Mr.  
4 Zimmerman from Time Warner Cable is a person  
5 who has been cleared. There are other people  
6 at the clients who are not permitted to see  
7 the highly confidential information.

8 So we'll try to inform the Court  
9 if there's anybody we're aware of when we're  
10 discussing highly confidential information who  
11 is not authorized to see it, but as between  
12 the Defendants' counsel sitting at this table,  
13 we are each permitted to see the highly  
14 confidential documents of the others.

15 JUDGE SIPPEL: But that hasn't  
16 been done yet with respect to this document?  
17 I take it Mr. Mills hasn't seen it?

18 MR. MILLS: I have not seen 134 or  
19 135, but we can arrange for that.

20 MR. COHEN: We can provide copies  
21 to you.

22 MS. WALLMAN: As far as I'm

1 concerned it's up to the Defendant who claimed  
2 it to be confidential to say what they want to  
3 have done with it. If it's not that  
4 confidential and you want to share it with one  
5 another, that's --

6 MR. COHEN: Well, it's not a  
7 question of not that confidential. It's a  
8 question of the protective order permits Mr.  
9 Mills and Mr. Beckner and Mr. Solomon to see  
10 our highly confidential information so that  
11 they can --

12 MR. MILLS: This is being admitted  
13 in some sense that could affect our --

14 JUDGE SIPPEL: Or I can rule on it  
15 tomorrow. I'm not going to rule on it until  
16 you see it. Everybody gets to see the deck.  
17 And 135 is a -- 134 is a Comcast exhibit.  
18 One, thirty-five is a Time Warner exhibit?

19 MS. WALLMAN: One, thirty-five is  
20 a document produced by Time Warner. It's  
21 marked confidential by Time Warner, and it's  
22 an internal exchange within Time Warner.



1 JUDGE SIPPEL: But who's offering  
2 it as an -- oh, you're offering it as an  
3 exhibit though.

4 MS. WALLMAN: Yes.

5 JUDGE SIPPEL: Of course. It  
6 would be your Exhibit No. 134 and your Exhibit  
7 No. 135.

8 MS. WALLMAN: Correct.

9 MR. COHEN: Right, and we have no  
10 objection with respect to 135 for Time Warner.

11 JUDGE SIPPEL: Well, I know what  
12 134 is. Has everybody --

13 MR. COHEN: I'm going to show it  
14 to my friends over here.

15 JUDGE SIPPEL: You don't want to  
16 be dealing from the bottom of the deck or  
17 something, you know.

18 MR. COHEN: Especially not with  
19 your friends.

20 JUDGE SIPPEL: Especially not.

21 (Laughter.)

22 MR. MILLS: We just want to make

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1       sure we're right with the protective order.

2               MS. WALLMAN:    You know, it has  
3       been a special concern to me to make sure that  
4       we turn square corners on this.   Sometimes  
5       it's stipulated that you share and sometimes  
6       it's not.

7               JUDGE SIPPEL:   I appreciate that.  
8       That's fine.   We will treat it accordingly,  
9       but if there's going to be cross-examination  
10      on it or examination, then we'll just have to  
11      -- oh, I know.   The point I was going to--  
12      well, that, too, yes.   If there's going to be  
13      cross-examination on it we'll just close the  
14      proceeding for those two documents.

15              And my question is also though do  
16      we have redacted copies for the public record?

17              MS. WALLMAN:   I would have to rely  
18      on Comcast and Time Warner to tell me what can  
19      be redacted.

20              MR. COHEN:    We'll provide that,  
21      Your Honor, for 135, and I assume Comcast will  
22      do it for 134.

1 JUDGE SIPPEL: Right. It doesn't  
2 have to be done immediately, but let's do it  
3 you know, before the end of the week. We can  
4 do that so we don't forget it.

5 We're trying to get these things  
6 as this public information becomes available,  
7 we're trying to get them and make them  
8 available to the press and also to get the  
9 process started for scanning them into the  
10 whatever that scanning thing is called.

11 MS. WALLMAN: eDocs.

12 JUDGE SIPPEL: eDocs, so that the  
13 people all over the world can have access to  
14 it.

15 (Laughter.)

16 JUDGE SIPPEL: And so we  
17 appreciate any accommodations there.

18 (Whereupon, the documents referred  
19 to were marked as WealthTV Exhibit  
20 Nos. 134 and 135 for identifica-  
21 tion.)

22 JUDGE SIPPEL: That's great.

1 Well, okay. You've done fine work. Can we  
2 wait until tomorrow morning to go forward with  
3 the other side?

4 MR. COHEN: I think that would be  
5 preferable, Your Honor, if we're going to try  
6 to resolve Mr. Herring's testimony.

7 JUDGE SIPPEL: Well, I still think  
8 we should start at ten o'clock and leave you  
9 time to do that.

10 MR. COHEN: Yes, we'll need the  
11 time.

12 JUDGE SIPPEL: Do you need more  
13 time?

14 MR. COHEN: Yeah, we'll need that  
15 time.

16 JUDGE SIPPEL: All right.

17 MS. WALLMAN: Your Honor, just  
18 before we close, I think we treated the  
19 carriage complaints and the replies earlier  
20 in the day, but I'm not sure that we got to  
21 moving into evidence the direct testimony of  
22 the WealthTV witnesses.

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1 JUDGE SIPPEL: Well, that can be  
2 done when they take the stand.

3 MS. WALLMAN: Okay.

4 JUDGE SIPPEL: I think that's the  
5 best way to do it. I mean, obviously, I mean,  
6 the illustration or the learning lesson is  
7 with respect to Mr. Herring's testimony. If  
8 you all didn't meet ahead of time and try and  
9 resolve as much as possible, it would be a  
10 terribly long day with this witness on the  
11 stand to go over each line of objections and  
12 hear arguments on it.

13 The other witnesses, if this  
14 becomes a problem, it becomes a problem. But  
15 I don't want to receive them point blank until  
16 there has been an effort to have them  
17 identified for the record and be sure that  
18 there's no objections to it.

19 MS. WALLMAN: I don't understand  
20 there to be objections to the other three  
21 written directs.

22 MR. COHEN: We will object to

1 portions of those directs. We just have not  
2 made in limine motions.

3 MS. WALLMAN: I see.

4 JUDGE SIPPEL: Yeah, that's  
5 exactly right. I'm treating the in limine  
6 motion as the same thing. It's just that it's  
7 a much more complex motion.

8 MS. WALLMAN: Thank you.

9 JUDGE SIPPEL: So okay. We're in  
10 agreement in the sense that we understand  
11 where we're going. Okay.

12 Well, I have nothing further  
13 today. I just want to really thank everybody,  
14 all of the participants for coming to grips  
15 with this because it's very difficult, very  
16 difficult logistically to handle all of this.

17 Is there anything else that we  
18 have, Mary? I don't think so.

19 Does anybody else have anything  
20 more?

21 (No response.)

22 JUDGE SIPPEL: Okay. We're in

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1 recess until 10:00 a.m. tomorrow morning.

2 Thank you very much.

3 (Whereupon, at 5:26 p.m., the  
4 hearing in the above-entitled matter was  
5 adjourned, to reconvene at 10:00 a.m.,  
6 Tuesday, April 20, 2009.)

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Herring Broadcasting v Time Warner, et al

Name of Hearing

MB DOCKET NO. 08-214

Docket No. (if applicable)

445 12<sup>th</sup> STREET, S.W., WASHINGTON, D.C.

Place of Hearing

April 20, 2009

Date of Hearing

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April 20, 2009

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